

Introduced by Senator Ducheny

February 24, 2006

An act to amend Sections 66427.1 and 66459 of the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1676, as introduced, Ducheny. Subdivisions: final maps.

(1) The Subdivision Map Act prohibits the legislative body of a city, county, or city and county from approving a final map for a subdivision to be recreated from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it finds, among other things, that each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given 180 days' written notice of the intention to convert before termination of tenancy due to the conversion or proposed conversion.

This bill would instead require that each tenant be given 180 days' notice of the intention to sell the rental unit to the general public and would prohibit the owner from changing the terms of the tenancy or giving notice to terminate the tenancy during those 180 days.

(2) Under the existing Subdivision Map Act, if the subdivider or subsequent owner of a condominium project, community apartment project, or stock cooperative project for which a final map is approved rents a dwelling in that project, the subdivider or subsequent owner of the project is required to give notice, as specified, to prospective rental tenants before execution of the rental agreement stating that the rental unit may be sold to the public and the lease terminated. The act requires the tenant to be given at least 90 days written notice of the intention to sell the rental unit to the general public before offering the

separate interest for sale to the general public. A violation of any provision of the act is a crime.

This bill would require the written notice of the intention to sell the rental unit to the general public to be given to the tenant at least 180 days before the unit is offered for sale. The bill would also prohibit the owner from changing the terms of the tenancy or giving notice to terminate the tenancy during those 180 days. Because a violation of this provision would be a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66427.1 of the Government Code is
2 amended to read:

3 66427.1. The legislative body shall not approve a final map
4 for a subdivision to be created from the conversion of residential
5 real property into a condominium project, a community
6 apartment project, or a stock cooperative project unless it finds
7 all of the following:

8 (a) Each of the tenants of the proposed condominium,
9 community apartment project or stock cooperative project has
10 received, pursuant to Section 66452.9, written notification of
11 intention to convert at least 60 days prior to the filing of a
12 tentative map pursuant to Section 66452. There shall be a further
13 finding that each ~~such~~ tenant, and each person applying for the
14 rental of a unit in ~~such~~ that residential real property, has, or will
15 have, received all applicable notices and rights now or hereafter
16 required by this chapter or Chapter 3 (commencing with Section
17 66451). In addition, a finding shall be made that each tenant has
18 received 10 days' written notification that an application for a
19 public report will be, or has been, submitted to the Department of
20 Real Estate, and that ~~such~~ the report will be available on request.

1 The written notices to tenants required by this subdivision shall
2 be deemed satisfied if ~~such~~ *these* notices comply with the legal
3 requirements for service by mail.

4 (b) Each of the tenants of the proposed condominium,
5 community apartment project, or stock cooperative project has
6 been, or will be, given written notification within 10 days of
7 approval of a final map for the proposed conversion.

8 (c) Each of the tenants of the proposed condominium,
9 community apartment project, or stock cooperative project has
10 been, or will be, given 180 days' written notice of intention to
11 ~~convert prior to termination of tenancy due to the conversion or~~
12 ~~proposed conversion~~ *sell the rental unit to the general public.*
13 *During the 180-day period, the owner may not change the terms*
14 *of the tenancy, nor give notice to terminate the tenancy pursuant*
15 *to Section 1946 of the Civil Code. The provisions of this* *This*
16 subdivision shall not *otherwise* alter or abridge the rights or
17 obligations of the parties in performance of their covenants,
18 including, but not limited to, the provision of services, payment
19 of rent, or the obligations imposed by Sections 1941, 1941.1, and
20 1941.2 of the Civil Code.

21 (d) Each of the tenants of the proposed condominium,
22 community apartment project, or stock cooperative project has
23 been, or will be, given notice of an exclusive right to contract for
24 the purchase of his or her respective unit upon the same terms
25 and conditions that ~~such~~ *the* unit will be initially offered to the
26 general public or terms more favorable to the tenant. The right
27 shall run for a period of not less than 90 days from the date of
28 issuance of the subdivision public report pursuant to Section
29 11018.2 of the Business and Professions Code, unless the tenant
30 gives prior written notice of his or her intention not to exercise
31 the right.

32 (e) This section shall not diminish, limit or expand, other than
33 as provided herein, the authority of any city, county, or city and
34 county to approve or disapprove condominium projects.

35 SEC. 2. Section 66459 of the Government Code is amended
36 to read:

37 66459. (a) If a final map has been approved for a
38 condominium project, community apartment project, or stock
39 cooperative project, and the subdivider or subsequent owner of
40 the project, ~~on or after January 1, 1993,~~ rents a dwelling in that

project, he or she shall, prior to offering the separate interest for sale to the general public, deliver the following notice, printed in at least 14-point bold print, prior to the execution of the rental agreement:

TO THE PROSPECTIVE TENANTS OF

(address)

THE UNIT YOU MAY RENT HAS BEEN APPROVED FOR SALE TO THE PUBLIC AS A CONDOMINIUM PROJECT, COMMUNITY APARTMENT PROJECT, OR STOCK COOPERATIVE PROJECT (WHICHEVER APPLIES). THE RENTAL UNIT MAY BE SOLD TO THE PUBLIC, AND, IF IT IS OFFERED FOR SALE, YOUR LEASE MAY BE TERMINATED. YOU WILL BE NOTIFIED AT LEAST 90 180 DAYS PRIOR TO ANY OFFERING TO SELL. IF YOU STILL LAWFULLY RESIDE IN THE UNIT, YOU WILL BE GIVEN A RIGHT OF FIRST REFUSAL TO PURCHASE THE UNIT.

(signature of owner or owner's agent)

(dated)

(b) The condominium project, community apartment project, or stock cooperative project shall not be referred to in a lease or rental agreement as an "apartment" or "apartments" on or after the date of the approval by the local agency of the final map for the condominium project, community apartment project, or stock cooperative project ~~in which the final map was approved on or after January 1, 1993.~~

(c) Any tenant of a condominium project, community apartment project, or stock cooperative project ~~pursuant~~ *subject* to this section shall be given at least 90 180 days' written notice of the intention to sell the rental unit to the general public. *During the 180-day period, the owner may not change the terms of the tenancy, nor give notice to terminate the tenancy pursuant to Section 1946 of the Civil Code.* This subdivision shall not *otherwise* alter or abridge the rights or obligations of the parties

1 in performance of their covenants, including, but not limited to,
2 the provision of services, payment of rent, or other obligations
3 imposed by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

4 (d) Any tenant who lawfully resides in a condominium project,
5 community apartment project, or stock cooperative project
6 ~~pursuant~~ *subject* to this section shall be given a right of first
7 refusal by the subdivider or subsequent owner of the project for
8 the purchase of his or her rental unit upon the same terms and
9 conditions that the unit will be initially offered to the general
10 public or terms and conditions more favorable to the tenant. This
11 right to purchase shall run for a period of 90 days from the date
12 of the notice, unless the tenant gives written notice within the
13 90-day period of his or her intention not to exercise that right.

14 (e) Failure to comply with this section shall not invalidate the
15 transfer of title to real property.

16 (f) This section shall not apply to any of the following:

17 (1) An owner of four dwelling units or less.

18 (2) Transfers pursuant to court order, including, but not
19 limited to, transfers ordered by a probate court in the
20 administration of an estate, transfers by any foreclosure sale after
21 default, transfers by any foreclosure sale after default in an
22 obligation secured by a mortgage, or transfers by a sale under a
23 power of sale after a default in an obligation secured by a deed of
24 trust or secured by any other instrument containing a power of
25 sale, and any subsequent transfer by a mortgagor or beneficiary
26 of a deed of trust who accepts a deed in lieu of foreclosure or
27 purchases the property at a foreclosure sale.

28 (3) Transfers by a fiduciary in the course of the administration
29 of a decedent's estate, guardianship, conservatorship, or trust.
30 For purposes of this paragraph, a "fiduciary" means a state- or
31 federally-chartered bank, trust company, savings association,
32 savings bank, credit union, or industrial loan company.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the
38 penalty for a crime or infraction, within the meaning of Section
39 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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